



Ninety-Eighth Legislature - Second Session - 2004
Committee Statement
LB 1012

Hearing Date: February 4, 2004

Committee On: Judiciary

Introducer(s): (Vrtiska, Baker, Burling, Combs, Connealy, Cudaback, Cunningham, Erdman, Jones, Kremer, Raikes, Stuhr, Stuthman, Tyson, Wehrbein)

Title: Provide immunity from liability for owners of anhydrous ammonia

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

5	Yes	Senators Brashear, Mines, Mossey, Quandahl, Tyson
2	No	Senators Chambers, Pedersen
1	Present, not voting	Senator Foley
	Absent	

Proponents:

Judy Zohner
Edgar Bredemeier
Tom Monke

Corey O'Brien
Burdette Piening
Gale Squier
Gene Searcey
Alice Licht
Ed Woeppel

Representing:

Floyd Vrtiska, Introducer
Self
Nebraska Agri-Business Association
Monke Brothers Fertilizer
Attorney General's Office
Nebraska Farm Bureau
Security First Insurance
Searcey Grain Co.
Nebraska Agri-Business Association
Nebraska Cooperative Council

Opponents:

Representing:

Neutral:

John Lindsay

Representing:

Nebraska Association of Trial Attorneys

Summary of purpose and/or changes:

Legislative Bill 1012 provides immunity from liability for owners of anhydrous ammonia. LB 1012 states that any person tampering with or assisting in tampering with

anhydrous ammonia assumes the risk of injury, death and any other economic or noneconomic loss or damage arising from tampering or assisting in tampering with anhydrous ammonia. An owner of anhydrous ammonia is not liable to such person for any such loss or damage arising out of tampering with or assisting in the tampering with anhydrous ammonia except in cases in which such damage or loss was caused by wanton, willful, reckless, or grossly negligent conduct of the owner.

LB 1012 defines an owner of anhydrous ammonia as a person who:

- Owns anhydrous ammonia,
- Owns a container, equipment, or storage facility containing anhydrous ammonia,
- Is responsible for the installation or operation of a container, equipment, or storage facility containing anhydrous ammonia,
- Sells anhydrous ammonia,
- Purchases anhydrous ammonia for any lawful purpose, or
- Operates or uses anhydrous ammonia containers, equipment, or storage facilities when using anhydrous ammonia for any lawful purpose.

Tampering is defined as unlawfully transferring or attempting to transfer anhydrous ammonia from its present container, equipment, or storage facility to another container, equipment or storage facility.

Explanation of amendments, if any:

The committee amendment furthers the intent of the bill and makes technical language changes.

First, the language clarifies that any person who owns, maintains, or installs anhydrous ammonia equipment, uses anhydrous ammonia for any lawful purpose, sells anhydrous ammonia for any lawful purpose, or transports anhydrous ammonia in a manner prescribed by law shall not be liable to any person who tampers with, or assists in tampering with, such anhydrous ammonia, or such anhydrous ammonia equipment, for personal injury, wrongful death, or any other economic or noneconomic damages arising out of such tampering, unless such liability is a result of the willful, wanton, reckless, or intentional acts or omission of such person.

Anhydrous ammonia equipment is defined as any equipment used in the application of anhydrous ammonia for agricultural purposes that meets all applicable safety requirements established by state and federal statutes and regulations or any container or storage facility used to store anhydrous ammonia in a manner that meets all applicable safety requirements established by state and federal statutes and regulations.

Finally, tampering is defined as intentionally, knowingly and unlawfully gaining access or attempting to gain access to anhydrous ammonia or anhydrous ammonia equipment.

Senator Kermit A. Brashear, Chairperson
